

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No.: AC-2009-13

**KEVIN TOHYON KIM**  
3701 Wilshire Blvd., #412  
Los Angeles, CA 90010  
CPA License No. 60277

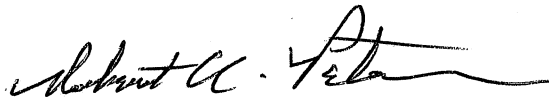
Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary is hereby adopted by the California Board of Accountancy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on October 30, 2009.

It is so ORDERED on October 1, 2009.



PRESIDENT

For The CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 NANCY A. KAISER  
Deputy Attorney General  
4 State Bar No. 192083  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. A-2008-169

12 **KEVIN TOHYON KIM**  
3701 Wilshire Blvd., #412  
13 Los Angeles, CA 90010

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 **Certified Public Accountant Certificate No.**  
60277

15 Respondent.  
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17  
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the California Board of Accountancy, the parties hereby agree to  
20 the following Stipulated Settlement and Disciplinary Order, which will be submitted to the Board  
21 for approval and adoption as the final disposition of the Accusation.

22 PARTIES

23 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of  
24 Accountancy. She brought this action solely in her official capacity and is represented in this  
25 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Nancy A. Kaiser,  
26 Deputy Attorney General.

27 2. Respondent Kevin Tohyon Kim (Respondent) is representing himself in this  
28 proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about November 22, 1991, the California Board of Accountancy issued Certified Public Accountant Certificate No. 60277 to Kevin Tohyon Kim (Respondent). The Certified Public Accountant Certificate will expire on December 31, 2010, unless renewed.

## JURISDICTION

4. Accusation No. A-2008-169 was filed before the California Board of Accountancy Board (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 28, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. A-2008-169 is attached as **Exhibit A** and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. A-2008-169. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. A-2008-169.

9. Respondent agrees that his Certified Public Accountant Certificate is subject to discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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2. **Actual Suspension.** Certified Public Accountant Certificate No. 60277 issued to Respondent is suspended for **one hundred and eighty (180) days**. During the period of suspension the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

3. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

4. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

5. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

6. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

7. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

8. **Comply With Citations.** Respondent shall comply with all final orders resulting from citations issued by the Board of Accountancy.

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1           9.     **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
2 Respondent should leave California to reside or practice outside this state, Respondent must  
3 notify the Board in writing of the dates of departure and return. Periods of non-California  
4 residency or practice outside the state shall not apply to reduction of the probationary period, or  
5 of any suspension. No obligation imposed herein, including requirements to file written reports,  
6 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise  
7 affected by such periods of out-of-state residency or practice except at the written direction of the  
8 Board.

9           10.   **Violation of Probation.** If Respondent violates probation in any respect, the Board,  
10 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry  
11 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is  
12 filed against Respondent during probation, the Board shall have continuing jurisdiction until the  
13 matter is final, and the period of probation shall be extended until the matter is final.

14           11.   **Completion of Probation.** Upon successful completion of probation, Respondent's  
15 license will be fully restored.

16           12.   **Ethics Course/Examination.** Respondent shall take and pass with a score of 90  
17 percent or better a Board approved ethics examination (within a given period of time or prior to  
18 the resumption of practice). (Exam will be passed prior to resumption of practice where license  
19 has been suspended or where otherwise appropriate.)

20           If Respondent fails to pass said examination within the time period provided or within two  
21 attempts, Respondent shall so notify the Board and shall cease practice until Respondent takes  
22 and successfully passes said exam, has submitted proof of same to the Board, and has been  
23 notified by the Board that he may resume practice. Failure to pass the required examination no  
24 later than 100 days prior to the termination of probation shall constitute a violation of probation.

25           Notwithstanding any other provision of this probation, failure to take and pass this  
26 examination within five years of the effective date of this order constitutes a separate cause for  
27 discipline of Respondent's license.  
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
submitted for consideration by the California Board of Accountancy.

Dated: 7/20/09

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General



NANCY A. KAISER  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. A-2008-169**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 NANCY A. KAISER, State Bar No. 192083  
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Los Angeles, CA 90013  
5 Telephone: (213) 897-5794  
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6

7 Attorneys for Complainant  
8  
9

10 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2009-13.

13 **KEVIN TOHYON KIM**  
3701 Wilshire Blvd., #412  
14 Los Angeles, CA 90010

**A C C U S A T I O N**

15 **Certified Public Accountant Certificate No. 60277**

16 Respondent.  
17

18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of  
22 Consumer Affairs.

23 2. On or about November 22, 1991, the Board issued Certified Public  
24 Accountant Certificate Number 60277 to Kevin Tohyon Kim (Respondent). The Certified Public  
25 Accountant Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on December 31, 2010, unless renewed.

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1 specified in subsection (a) of Section 89. A licensee engaged in the practice of public accountancy  
2 as defined in Section 5051 of the Business and Professions Code is required to hold a license in  
3 active status. No carryover of continuing education is permitted from one two-year license  
4 renewal period to another.

5 . . .

6 “(c) Accounting and Auditing Continuing Education Requirement. A licensee who  
7 engages in planning, directing, performing substantial portions of the work, or reporting on an  
8 audit, review, compilation, or attestation service, shall complete 24 hours of the 80 hours of  
9 continuing education required pursuant to subsection (a) in the course subject matter specified in  
10 this subsection. Course subject matter must pertain to financial statement preparation and/or  
11 reporting (whether such statements are prepared on the basis of generally accepted accounting  
12 principles or other comprehensive bases of accounting), auditing, reviews, compilations, industry  
13 accounting, attestation services, or assurance services. This continuing education shall be  
14 completed in the same two-year license renewal period as the report is issued. If no report is  
15 issued because the financial statements are not intended for use by third parties, the continuing  
16 education shall be completed in the same two-year license renewal period as the financial  
17 statements are submitted to the client.

18 “(d) A licensee who must complete continuing education pursuant to subsections  
19 (b) [government auditing continuing education requirement] and/or (c) of this section shall also  
20 complete an additional eight hours of continuing education specifically related to the detection  
21 and/or reporting of fraud in financial statements. This continuing education shall be part of the 80  
22 hours of continuing education required by subsection (a), but shall not be part of the continuing  
23 education required by subsections (b) or (c). This requirement applies to licensees who renew  
24 their license on or after July 1, 2005.

25 . . .

26 “(g) Failure to Comply. A licensee's willful failure to comply with the  
27 requirements of this section shall constitute cause for disciplinary action pursuant to Section  
28 5100(g) of the Accountancy Act.”

1                   12. California Code of Regulations, title 16, section 89, states, in part:  
2                   “(a) Upon renewal, a licensee who is required, pursuant to Section 87, to obtain  
3 continuing education must provide a written statement, signed under penalty of perjury, certifying  
4 that the requisite number of continuing education hours has been obtained.

5                   ...

6                   “(k) A licensee's willful making of any false or misleading statement, in writing,  
7 regarding his or her continuing education shall constitute cause for disciplinary action pursuant to  
8 section 5100(g) of the Accountancy Act.”

9                   PROFESSIONAL STANDARDS

10                  13. The standards of practice pertinent to this accusation and the engagements  
11 at issue include, without limitation:

12                  14. “Generally Accepted Accounting Principles” (GAAP) are derived from  
13 various authoritative sources including, without limitations, the Statements of Financial  
14 Accounting Standards (SFAS or FAS), the Financial Accounting Standards Board (FASB), which  
15 codifies principles by FASB number, and the Accounting Principles Board (APB), which issues  
16 numbered Opinions. [Relevant GAAP standards include APB 12, FAS No. 5, 12, 13, 47, and  
17 95.]

18                  15. Generally Accepted Auditing Standards (GAAS), are contained in  
19 Statements on Auditing Standards (“SAS”), codified by the American Institute of Certified Public  
20 Accountants (“AICPA”) by AU number. Reporting (disclosure) standards required by GAAS are  
21 issued by either the FASB or APB.

22                  16. Standards applicable to the performance of a review are discussed in the  
23 Statements on Standards for Accounting and Review Services (SSARS) and are codified by “AR”  
24 number. [Relevant SSARS sections include, without limitation: AR sections 100.33, 100.34,  
25 100.35, 100.36, 100.37, 100.43, 100.44, 100.45, 100.46, 100.53, 100.56, 100.57, 100.58, and  
26 100.83.]

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1 **COST RECOVERY**

2 17. Section 5107, subdivision (a), states:

3 "The executive officer of the board may request the administrative law judge, as  
4 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or  
5 certificate found to have committed a violation or violations of this chapter to pay to the board all  
6 reasonable costs of investigation and prosecution of the case, including, but not limited to,  
7 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Gross Negligence)**

10 18. Respondent is subject to discipline pursuant to Code section 5100,  
11 subdivision (c), in that Respondent committed gross negligence in the preparation and issuance of  
12 a review report for Bodice 'N Knit, Inc. (BNK or the company), which contained extreme  
13 departures from professional standards as set forth in SSARS and FAS, as follows:

14 **Review Report**

15 a. Respondent undertook the engagement to review BNK's financial  
16 statements for the year ended December 31, 2005, and issued his accountant's review report,  
17 dated March 27, 2006 (review report). However, Respondent should not have issued a review  
18 report since he was not independent from BNK. Respondent's brother-in-law is the owner of  
19 BNK. (SSARS section AR100.53).

20 b. In the review report, Respondent included outdated language and did not  
21 refer to the statement of cash flows or to the Standards for Accounting and Review Services  
22 issued by the AICPA. In addition Respondent made reference to a Statement of Income and  
23 Retained Earnings, however, the changes in retained earnings were reported in a Statement of  
24 Stockholder's Equity, which was not referenced in the review report. (SSARS section 100.46,  
25 APB No. 12, paragraph 10).

26 c. Respondent did not modify the review report for departures from generally  
27 accepted accounting principles. Respondent did not modify his review report for management's  
28 omission to disclose in the notes to the reviewed financial statements the following required.

1 disclosures: allowance for doubtful accounts, capital and operating leases, line of credit  
2 violations, related party transactions, five years summary of maturities of long-term debt, and  
3 interest and income taxes paid on the Statement of Cash Flows. Also, the financial statements  
4 included equipment valued at approximately \$1.8 million; however, as of December 31, 2005,  
5 these assets had been repossessed but not removed from the client's books of record. Respondent  
6 should have modified his report or withdrawn from the engagement. (SSARS sections AR100.56,  
7 AR100.57 and AR100.58.)

8 d. Respondent issued a report on supplementary information that did not  
9 conform to professional standards, in that the report did not state that it was prepared for the  
10 purpose of expressing limited assurance that there are no material modifications that should be  
11 made to the financial statements in order for them to be in conformity with GAAP. In addition,  
12 since the supplementary information was compiled, the review report should have stated that the  
13 supplementary information was reported "without audit or review." (SSARS section AR100.83.)

14 **Financial Statements and Notes**

15 e. An allowance for doubtful accounts was not included in the financial  
16 statements or disclosed in the notes to the reviewed financial statements. Respondent did not  
17 include accounts receivable at its net realizable value (cost less an allowance for doubtful  
18 accounts) or disclose in the notes to the reviewed financial statements the method (i.e., GAAP or  
19 non-GAAP) used to determine the collectibility of accounts receivable. (FAS No. 5, paragraph 8,  
20 paragraph 22, and APB No. 12, paragraph 3.)

21 f. Capital and Operating lease disclosures were omitted from the notes to the  
22 reviewed financial statements, as required. (FAS No. 13, paragraph 16.)

23 g. Violations of the bank line of credit's restrictive covenants were not  
24 disclosed in the notes to the reviewed financial statements, as required. (FAS No. 5, paragraphs  
25 18 and 19.)

26 h. The 5-year summary of maturities of long-term debt was not disclosed in  
27 the notes to the reviewed financial statements, as required. (FAS No. 47, paragraph 10.)

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1 i. Related party transactions were not disclosed in the notes to the reviewed  
2 financial statements, as required, e.g., note payable to stockholder. (FAS No. 57, paragraph 2.)

3 j. The Statement of Cash Flows did not include the required disclosure of  
4 interest and income tax paid. (FAS No. 95, paragraph 29.)

5 **Work Papers**

6 k. The work papers do not include evidence that Respondent has the requisite  
7 knowledge of the client or the client's industry. (SSARS sections AR100.33, AR100.34, and  
8 AR100.35.)

9 l. Respondent presented analytical procedures for only the current year's  
10 activity. Respondent did not make any conclusions on what the percents (positive and negative,  
11 large and small) mean to the financial statements when compared to prior periods, the industry,  
12 and Respondent's expectations. (SSARS sections AR100.36 and AR100.37)

13 m. There were no work papers to support the inquiries made by Respondent.  
14 (SSARS sections AR100.43, AR100.44, and AR100.45.) Respondent used an *Inquiry and*  
15 *Analytical Procedures Program* dated July 1994. In using this form, Respondent relied  
16 exclusively on oral representations of the client, as he did not prepare work papers in support of  
17 his findings and conclusions in the performance of the review engagement, as follows:

18 i. Accountants Receivable. Respondent made inquiries of  
19 management about the collectibility and adequacy of an allowance for doubtful accounts;  
20 however, an allowance for doubtful accounts was not presented in either the reviewed financial  
21 statements nor in the notes to the reviewed financial statements. The only supporting work papers  
22 provided were (1) a summary of an aged accounts receivable trail balance and (2) a standard ratio  
23 analysis comparing the allowance to the accounts receivable balance, which Respondent answered  
24 as "N/A."

25 ii. Property and Equipment. Respondent made inquiries of  
26 management as to whether asset additions or retirements were reflected in the records of the  
27 client. Property and equipment comprised 80.6% of the company's assets, however, knitting  
28 machines valued at \$1.8 million had been repossessed in February 2005 but were not removed

1 from the company's books and records. Respondent did not have any supporting work papers to  
2 support Property and Equipment and accumulated depreciation balances, as he relied only on  
3 verbal representations.

4                   iii.     Bank Line of Credit. Respondent made inquiries of management as  
5 to the bank line of credit's restrictive covenants; however, the bank documents listing the  
6 restrictive covenants were not included as work papers.

7                   iv.     Notes Payable to Stockholder. Respondent made inquiries of  
8 management about related party transactions; however, other than a lead schedule, there were no  
9 work papers describing the transaction(s) and/or the required disclosures.

10                  v.     Unusual Transactions. Respondent made inquiries of management  
11 about unusual transactions; however, he did not prepare work papers regarding any unusual  
12 transactions, such as GAAP departures for not recording an allowance for doubtful accounts and  
13 its disposition.

## 14                                   **SECOND CAUSE FOR DISCIPLINE**

### 15                                   **(Repeated Negligent Acts)**

16                  19.     Respondent is subject to disciplinary action under section 5100, subdivision  
17 (c), in that Respondent's conduct, as set forth above in paragraph 18, constitutes repeated  
18 negligent acts.

## 19                                   **THIRD CAUSE FOR DISCIPLINE**

### 20                                   **(Violation of Professional Standards)**

21                  20.     Respondent is subject to discipline pursuant to Code sections 5100,  
22 subdivision (g), in conjunction with California Code of Regulations, title 16, section 58, in that  
23 Respondent failed to comply with all applicable professional standards in the performance of the  
24 review report, in that he was not independent, used outdated language, and did not modify his  
25 report for departures relating to footnote disclosures, as more fully discussed in paragraph 18,  
26 above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Issue Reports in Accordance with Professional Standards)**

3 21. Respondent is subject to discipline pursuant to Code sections 5100,  
4 subdivision (g), and 5062, in that Respondent issued a review report that failed to conform to  
5 professional standards, as more fully discussed in paragraphs 18 through 20, above.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Willful Violation of Any Rules or Regulations)**

8 9. Respondent is subject to discipline pursuant to Code sections 5100,  
9 subdivision (g), in that he willfully violated California Code of Regulations, title 16, section 65.  
10 Specifically, Respondent performed a review of BNK for the year ended December 31, 2005;  
11 however, respondent's brother-in-law is the owner of BNK. Therefore, Respondent was not  
12 independent in relation to BNK and was precluded from issuing a review report. (AICPA Rules  
13 of Professional Conduct, ET section 101.01.)

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Wrongful Acquisition of License -- False Statements)**

16 9. Respondent's license is subject to discipline under Code sections 498,  
17 5100, subdivisions (b) and (g), in conjunction with California Code of Regulations, title 16,  
18 sections 87, subdivisions (a), (c), (d), and (g) and 89, subdivision (a); and (k), in that Respondent  
19 wrongfully acquired his license by knowingly making a misrepresentation of a material fact in his  
20 license renewal application. Specifically, in Respondent's December 31, 2006, license renewal  
21 application, which was signed under penalty of perjury, Respondent certified that he had  
22 successfully completed the required total number of hours of continuing education as required for  
23 the renewal of his license. In fact, Respondent had not completed 80 hours of continuing  
24 education at the time of the certification of his renewal application. Respondent admitted to the  
25 Board representative after being requested to provide the course completion forms as evidence of  
26 completing the 80-hour requirement that he had only completed an 8-hour ethics course. Also,  
27 within the 80 hours, Respondent should have completed the 24-hour Accounting and Auditing  
28 requirement and the 8-hour fraud requirement.

1 PRAYER

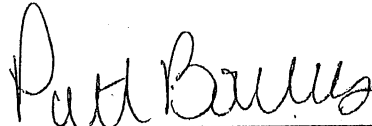
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending or otherwise imposing discipline upon Certified  
5 Public Accountant Certificate Number 60277, issued to Kevin Tohyon Kim;

6 2. Ordering Kevin Tohyon Kim to pay the Board the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 5107; and,

9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: April 23, 2009

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13 

14 PATTI BOWERS  
15 Executive Officer  
16 California Board of Accountancy  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant

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